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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the International Federation Terre des Hommes, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[17 February 1994]

Crimes against humanity and impunity

1. For many years now, the International Federation Terre des Hommes (FITDH) has been committed to supporting development efforts, particularly in favour of children, in many countries of Europe, Africa, Latin America and Asia. In the course of these activities, FITDH has noted that development is jeopardized not only by non-observance of economic, social and cultural rights but also by failure to punish violations of human rights and fundamental freedoms. Impunity engenders contempt for the law and weakens the foundations of the constitutional State. It results in institutions losing credibility and breeds a climate of violence which hampers all attempts at democratic construction. Yet sustainable development requires political stability and genuine democracy.

2. FITDH has been extremely heartened by the advance of democracy in many countries of Latin America and Africa. The progress towards peace agreements in countries where there is an internal conflict leads FITDH to hope that it can finally play a permanent role in those countries, rather than providing humanitarian assistance merely to enable people to survive. Nevertheless, it is extremely disturbing to note that, in certain cases, there has been a reversion to authoritarian practices, for example the practice of large-scale electoral fraud or the de facto replacement of the ordinary laws by military legislation. In addition, violence, fuelled by impunity, still exists in a number of these countries.

3. The power equation within many States justifies fears that, without a resolute and determined attitude on the part of the international community, impunity will persist, with the likelihood of compromising the hopes for peace and development of the countries where it prevails. The following few examples of countries in Latin America and Africa demonstrate that this phenomenon jeopardizes the stability of a constitutional State which is necessary for development, particularly in Colombia, El Salvador, Guatemala and Mauritania. Although there are considerable differences of context, these countries have representative similarities: crimes against humanity committed in the past, in the form of violations of human rights and fundamental freedoms (enforced disappearances, massacres, etc.), have been covered up by amnesty laws, leaving the victims without possible remedy or compensation. There is no doubt that, in such cases, impunity is a dangerous invitation to repeat such crimes.

4. In Colombia, despite the recent entry into force of a new Constitution, limitations have once again been placed on freedoms (habeas corpus, freedom of the press, war levy). In 1993, the country was under a state of emergency for 270 days, and a number of constitutional guarantees were suppressed. In addition, the case of the massacre of 20 Paez Indians in the department of Cauca in December 1991 has not yet been solved, even though the culprits have been named. This is only one example of the numerous situations of impunity that persist in the country. Mention could also be made of the measures applied to drug-traffickers agreeing to give themselves up to the law, who receive only very light penalties, or non-recognition of the gravity of enforced disappearances, which continue to occur systematically at the rate of one every two days, according to various Colombian human rights organizations.

5. In El Salvador, the death squads still exist, as do impunity mechanisms, while members of the army or the police guilty of abuses have benefited from unjustifiable pardons. In addition, ONUSAL reports that in 1993 there were 1,225 murders, or four a day. The Salvadorian Human Rights Commission has been informed of 30 arbitrary executions, and during the same period more than 50 persons were victims of human rights violations for which responsibility can be ascribed to the State. A number of them showed signs of torture. There are still between three and five enforced disappearances each month, with no expectation of a solution. Lastly, mention may be made of the assassination in El Salvador and Colombia of leaders of various political

groups who had rejoined democratic life following the peace agreements. Allowing these murders to go unpunished would endanger the credibility of these agreements and the proper functioning of the State.

6. In Guatemala, the civil self-defence patrols are continuing to subject Indian communities to repression. Democracy is making only very halting progress, and there does not seem to be any real will to purge the army of military personnel responsible for various abuses. Between January and November 1993, according to CEPRODH (Centre for Research on Human Rights), 262 extrajudicial executions, 40 detentions and enforced disappearances, 33 cases of torture and 162 death threats were recorded.

7. In Mauritania, according to the daily newspaper Le Monde, the Assembly decided on 3 June 1993 to grant a full amnesty to the officers who had tortured and killed hundreds of their men in 1990 and 1991. After long denying these crimes, the authorities were forced into acknowledging them by the publication, in March 1993, of a report by a non-governmental commission of inquiry listing 491 victims and 274 killers.

8. Impunity in the economic sphere acts as a major brake on development. It is manifested in corruption, for example among the State bodies responsible for ensuring respect for human rights, supplemented by immunity for leading political figures responsible for violent situations. The misappropriation of public property, particularly in low-income countries, mainly penalizes the most disadvantaged strata of society. Demanding that such property should be returned is the only measure that would be effective in terminating such practices, but it is rarely implemented. There is also a need for improved cooperation between the States concerned in this matter.

9. The militarization of society, the weakness of judicial machinery and corruption persist in many geographical areas. These factors perpetuate attitudes which, in the past, have been the cause of violations of human rights and fundamental freedoms. The inability of States to apply newly revised Constitutions or to make the necessary amendments to Constitutions in force endangers their democracy. Therefore, unless prompt and effective action is taken, impunity will continue to give rise to all kinds of human rights violations and to act as a major brake on development.

10. During the sitting of the Permanent Peoples' Tribunal at San José, Costa Rica, in 1990, it was clearly stipulated that, if offenders remain unpunished, responsibility for their acts must be assumed collectively by all members of the institution or group to which they belong. Similarly, FITDH wishes to recommend that the Commission on Human Rights should:

(a) Invite the Government of Guatemala to implement the various resolutions adopted by the Commission on Human Rights, particularly resolution 1993/88 of 10 March 1993;

(b) Invite the Government of Mauritania to take immediate steps to compensate the victims of repression;

(c) Invite the Special Rapporteurs concerned to investigate the causes and effects of persistent situations of impunity in the countries they are studying, and if necessary appoint other experts for similar situations;

(d) Pronounce on the desirability of a permanent international court to try crimes entailing violations of human rights and fundamental freedoms which have remained unpunished.